

REMARKS:

Claims 10-22, 25, and 27-42 were pending in the application at the time of the Office Action. Claims 10, 18, 21, 27-29, 32-34, and 40 are amended herein. No claims have been added or canceled. Therefore, claims 10-22, 25, and 27-42 remain pending in this application.

Support for the present claim amendments can be found in the originally filed specification, including at least the description of the embodiments provided at paragraph [0035].

Statement of Substance of Interview

Applicant thanks the Examiner for extending the courtesy of conducting a telephone interview on May 20, 2010. Participating in the interview were Examiner Monikang and Applicant's undersigned representative. Applicant's proposed claim amendments were discussed in view of the cited art. Features recited in claim the previously pending version of 18 that were not examined in the Office Action were also discussed. The Examiner agreed that the discussed claim amendments, included herein, would likely overcome the present rejections. The Examiner also agreed that it appears that features recited in previously pending claim 18 (discussed in detail below) were not examined in the Office Action. No agreement was reached as to allowability.

Unexamined Claim Features

Applicant submits that the features "a user interface configured to receive a user input of a desired value for at least one of the one or more play-back periods" and "wherein the instructions are further executable to cause the device to set a duration of the at least one play-back period based on the desired value" recited in the previously pending version of claim 29, and similar features recited in the previously pending version of claims 18, 27, 33, and 40 were not fully examined in the Office Action. For example, the rejection of claim 29 states only that "[c]laims 29 & 39 ha[ve] been analyzed and rejected according to claim 32." Office Action at 13. However, the Examiner's analysis of claim 32 does not address the feature "user input of a desired value for at least one of the one or more play-back periods," or the feature "set a duration of the at least one play-back period based on the desired value" that are recited in previously

pending claim 29. Similarly, the Examiner's rejection of claim 18 fails to address the recited feature "based on a user input." Similar remarks apply with respect to the features recited in the previously pending version claims 27, 33, and 40. Applicant notes that during the May 20, 2010 interview, the Examiner agreed that it appears that the feature "based on a user input" recited in previously pending claim 18 was not examined during the examination of the claims.

The amendments to independent claims 10, 21, 28, 32, and 34 presented herein add features similar to those previously recited in the previously pending versions of dependent claims 18, 27, 29, 33, and 40 that, as discussed above, were not examined in the Office Action. Accordingly, Applicant respectfully submits that any subsequent Office Action should not be made final. Applicant also submits that in view of the unexamined claim features, the Examiner has failed to establish a *prima facie* case of obviousness as to the previously pending version of claims 18, 27, 29, 33, and 40.

Art-Based Rejections

All pending claims stand rejected under 35 U.S.C. § 103(a) as being unpatentable over various combinations of Yoshizaki (US Patent 5,870,365), Kamon, US Patent Pub. 20040141446, Graumann (US Patent Pub. 2004/0264711), Smith (US Patent Pub. 2002/0173864), and Fielder (US Patent 5,845,240).

As discussed above, independent claims 10, 21, 28, 32, and 34 are amended herein to add features similar to those previously recited in the examined dependent claims 18, 27, 29, 33, and 40. For example, claim 10 is amended to recite the features "**receiving input indicative of a user-specified length of time**" and "**wherein the interval of time has a length corresponding to the user-specified length of time,**" which are not taught or suggested by the cited references, taken alone or in combination.

Applicant notes that, while rejecting claim 18, the Examiner correctly acknowledges that the Yoshizaki and Kamon references fail to disclose the features "further comprising varying the length of the data retrieved from the buffer based on a user input." Office Action at 9. Thus, it follows that the Yoshizaki and Kamon references, taken alone or in combination, fail to teach or suggest the similar features "receiving input indicative of a user-specified length of time" and

“wherein the interval of time [corresponding to the data retrieved from the buffer] has a length corresponding to the user-specified length of time” recited in amended claim 10.

Applicant respectfully submits that the Graumann reference fails to cure the deficiencies of Yoshizaki and Kamon. Graumann is directed to a method and apparatus in which “[a]n input audio signal is analyzed to determine a power spectral density profile and the power spectral density profile is compared with at least one template profile” to determine how “frequency bands of the input audio signal are [to be] selectively attenuated.” Graumann at Abstract. Applicant notes that in the rejection of claim 18, the Office Action relies on Graumann as disclosing the feature “further comprising varying the length of the data retrieved from the buffer based on a user input.” *See* Office Action 9. The Examiner asserts:

However, **Graumann discloses determining a spectral density of an incoming sound, by so doing analyzing the incoming sound in subsets of frequency bands, therefore varying the lengths** (Graumann, abstract). It would have been obvious to modify the Yoshizaki et al reference to determine a power spectral density of the incoming sound by so doing analyzing the incoming sound in subsets of frequency bands, therefore varying the lengths as taught in Graumann (Graumann, abstract) before wirelessly transferring the sound as taught in Kamon for the purpose of being able to determine which frequency does the incoming sound exceed the threshold level.

Id. (emphasis added). Applicant notes that Graumann purportedly discloses varying a length of time used in performing a discrete Fourier transform, and not “varying the length of the data retrieved from the buffer” that is “wirelessly transmitt[ed],” as is recited in the previously pending versions of dependent claim 18 and independent claim 10. Applicant further submits that Graumann fails to teach or suggest the feature “wherein the interval of time has a length corresponding to the user-specified length of time” recited in amended claim 10. The Examiner did not contend otherwise.

The other cited references fail to cure the above-discussed deficiencies of Yoshizaki, Kamon, and Graumann. The Smith reference is simply directed to “a method and system for digitally and automatically adjusting the audio volume of digitized speech signals.” Smith at Abstract. Fielder is directed to “selectively recording or recalling events.” Fielder at Abstract. Fielder discloses “enabling a user to select a portion or portions of said record of the most recent events recorded in said acquisition buffer, in order to determine which portions . . . will be

preserved.” *Id.* Applicant submits that neither Smith nor Fielder teach or suggest the features “receiving input indicative of a user-specified length of time” and “wherein the interval of time has a length corresponding to the user-specified length of time” recited in amended claim 10.

For at least the reasons stated above, even assuming *arguendo* that the motivation to combine the cited references suggested by the Examiner is proper (which Applicant does not concede), the proposed combinations do not teach or suggest all of the features of amended claim 10. Accordingly, a *prima facie* of obviousness of claim 10 cannot be established. Similar remarks also apply to independent claims 21, 28, 32, and 34, although these claims have different scope than claim 10. Accordingly, a *prima facie* of obviousness of those claims cannot be established. Applicant respectfully requests reconsideration and removal of the present rejections.

CONCLUSION:

Applicant respectfully submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extension of time (under 37 C.F.R. § 1.136) is necessary to prevent the above-referenced application from becoming abandoned, Applicant hereby petitions for such extension.

The Commissioner is authorized to charge any fees that may be required, or credit any overpayment, to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account No. 501505/6057-27400/EM.

Respectfully submitted,

Date: June 18, 2010

By: /Eric B. Min/
Eric B. Min
Reg. No. 54,761
Attorney for Applicant

Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.
P.O. Box 398
Austin, TX 78767-0398
(512) 853-8862